

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN E. WILLIAMS, III,

Plaintiff,

v.

MICHAEL LIGHT et al.,

Defendants.

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Case No. CIV-19-465-SLP

**ORDER**

Before the Court is Defendant Scott Crow's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment [Doc. No. 42] (the "Motion"). At issue is Plaintiff's claim against Defendant Scott Crow alleging the denial of medical care. *See* Order [Doc. No. 22], at 3-4 (finding that, after reviewing the Complaint, Plaintiff adequately stated a § 1983 claim against Defendant Crow). United States Magistrate Judge Amanda Maxfield Green issued a Report and Recommendation in which she recommended the Court grant Defendant's Motion to the extent it requests dismissal of Plaintiff's claim for monetary damages, but deny the Motion to the extent it requests (1) dismissal of Plaintiff's claim for injunctive relief and (2) summary judgment on the affirmative defense of failure to exhaust administrative remedies. R. & R. [Doc. No. 58], at 17.

No objection to the Report and Recommendation or extension of time in which to object was filed. However, the day after the filing of the Report and Recommendation, a document from Plaintiff was entered electronically on the docket [Doc. No. 59]. This filing entitled "Plaintiff's Response to Defendant Scott Crow's Motion to Dismiss" appears to be

a belated response to the underlying Motion instead of an objection to the Report and Recommendation.<sup>1</sup> Whenever an objection is filed, the Court reviews de novo any portion of the Report and Recommendation to which Plaintiff has made specific objection. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Even if the Court construes Plaintiff's untimely response as an objection to the Report and Recommendation, the Court finds nothing therein that changes the outcome of Judge Green's analysis.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 58] is ADOPTED.

IT IS FURTHER ORDERED as follows:

(A) Defendant Crow's Motion is GRANTED to the extent it requests dismissal of Plaintiff's claim against Defendant Crow for monetary damages due to Eleventh Amendment immunity;

(B) Defendant Crow's Motion is DENIED to the extent it requests dismissal of Plaintiff's claim for injunctive relief in the form of prospective adequate medical care;

(C) Defendant Crow's Motion is DENIED to the extent it requests summary judgment on the affirmative defense of failure to exhaust administrative remedies.

IT IS THEREFORE ORDERED this 14<sup>th</sup> day of February, 2022.

  
SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Plaintiff's filing is internally dated and postmarked before the Report and Recommendation was issued.